

AMENDED IN ASSEMBLY APRIL 16, 1998

AMENDED IN SENATE JANUARY 5, 1998

SENATE BILL

No. 175

Introduced by Senator Kelley

January 21, 1997

An act to amend ~~Section 33452~~ of Sections 32912, 33704, 38875, and 39762 of, and to amend the headings of Article 5.5 (commencing with Section 38251), Article 17 (commencing with Section 38522), Article 38 (commencing with Section 38881), and Article 39 (commencing with 38885) of Chapter 5 of, and Article 3 (commencing with Section 39721), Article 4 (commencing with Section 39731), and Article 7 (commencing with Section 39761) of Chapter 9 of, Part 3 of Division 15 of, the Food and Agricultural Code, relating to ~~milk~~ products.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as amended, Kelley. ~~Milk stabilization and marketing plan~~ Dairy products.

(1) Existing law requires that various dairy products conform to, and be labeled in accordance with, regulations of the federal Food and Drug Administration.

This bill would state the intent of the Legislature to preserve the state's own compositional standards for solids not fat, fat, and total solids in fluid milk, as defined.

(2) Existing law prohibits lowfat fruit kefir from containing more than 1.2% milk fat.

This bill would also prohibit light (lite) fruit kefir from containing more than 1.2% milk fat.

(3) Existing law requires UHT flavored reduced-fat milk to contain not less than 2.1% milk fat.

This bill would require UHT flavored reduced-fat milk to contain not more than 2.1% milk fat.

(4) Because, under existing law, a violation of any provision of the Food and Agricultural Code is a misdemeanor, the bill would impose a state-mandated local program by creating new crimes.

(5) Existing law requires milk products plants to obtain nondairy frozen dessert mix from licensed manufacturers, as specified. Existing law contains a cross-reference to a nonexistent statute.

This bill would remove that cross-reference and make a corresponding change.

(6) Existing law specifies standards for various types of milk including reduced fat milk, lowfat or light milk, nonfat milk, skim milk, and fat free milk.

This bill would conform the headings of those provisions with the types of milk specified in those provisions.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) Existing law requires the Secretary of Food and Agriculture to conduct a study to determine the economic impact on the milk pooling system in California as a result of increased activities in the manufacturing grade milk process and, on or before July 1, 1997, to submit a report to the Governor, the Senate Committee on Agriculture and Water Resources, and the Assembly Committee on Agriculture that includes proposed legislation necessary to protect the public interest in the equalization, competitiveness, and integrity of California's milk stabilization and marketing plan.~~

~~This bill would state that it is the intent of the Legislature, in enacting this act, to implement the recommendations of that report.~~

~~(2) Existing law, which is to be repealed on January 1, 1999, prohibits a dairy cow farm that was marketing market milk on August 1, 1996, from marketing manufacturing milk, but permits such a dairy to elect to market manufacturing milk for the 12-month period beginning January 1, 1997, or for the 12-month period beginning January 1, 1998, or for both of those time periods.~~

~~This bill would continue that existing law beyond January 1, 1999, by eliminating that repeal date. This bill would also permit a dairy cow farm subject to its provisions to elect each year on January 1 to market manufacturing milk for a 12-month period.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no.~~
~~yes. State-mandated local program: no yes.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature, in~~
2 ~~SECTION 1. Section 32912 of the Food and~~
3 ~~Agricultural Code is amended to read:~~
4 ~~32912. (a) Any milk or milk product, frozen dessert,~~
5 ~~or cheese that is subject to a standard of identity or~~
6 ~~standard of composition defined in this division may be~~
7 ~~specially formulated or processed to lower the content of~~
8 ~~its milkfat, alter its milkfat composition, or otherwise~~
9 ~~modify its nutrient profile to conform to a nutrient~~
10 ~~content claim, as defined by federal regulation, to the~~
11 ~~extent that it will not comply with the compositional~~
12 ~~requirements of its standard of identity or composition.~~
13 ~~These modified foods shall be labeled in accordance with~~
14 ~~the applicable provisions of Title 21 of the Code of~~
15 ~~Federal Regulations.~~
16 ~~(b) It is the intent of the Legislature to retain the~~
17 ~~state's existing compositional standards for solids not fat,~~
18 ~~fat, and total solids in fluid milk. "Fluid milk" includes,~~
19 ~~but is not limited to, milk, lowfat milk, reduced fat milk,~~
20 ~~and nonfat milk.~~
21 ~~SEC. 2. Section 33704 of the Food and Agricultural~~
22 ~~Code is amended to read:~~

1 33704. (a) Sections 33701, 33731, 33732, 33733, 33734,
2 33767, 33768, 33770, 33771, 33776, and 34593 do not apply
3 to the manufacture of ice cream that is manufactured
4 from ice cream mix, to frozen dairy dessert that is
5 manufactured from frozen dairy dessert mix, to frozen
6 dessert that is manufactured from frozen dessert mix, to
7 frozen yogurt that is manufactured from frozen yogurt
8 mix, or to nondairy frozen dessert that is manufactured
9 from nondairy frozen dessert mix, if those products are
10 manufactured in a freezing device from which those
11 products are served directly in a semifrozen state,
12 without packaging of any type, for consumption on the
13 premises in or from rooms where food is served to the
14 public.

15 Except for nondairy frozen dessert mix, all mixes so
16 used shall be secured from a licensed manufacturer of
17 milk products.

18 Ice cream mix, frozen yogurt mix, frozen dairy dessert
19 mix, frozen dessert mix, and nondairy frozen dessert mix
20 shall be manufactured into a semifrozen state without
21 adulteration and freezing device salvage shall not be
22 reused as a mix.

23 (b) A limited packaging permit may be issued by the
24 secretary to a semifrozen (soft-serve) milk products plant
25 for on-premises manufacture and packaging of hard
26 frozen dairy products or hard frozen dairy product
27 novelties. The permit may only be issued after the
28 suitability of the facility for manufacture and packaging
29 has been determined by the secretary. An annual onsite
30 evaluation of compliance with the specific permit
31 conditions shall be completed by the secretary prior to
32 renewal of the limited packaging permit. A semifrozen
33 milk products plant issued a limited packaging permit
34 shall meet all of the following standards:

35 (1) The manufacturing and packaging of hard frozen
36 dairy product novelties shall be done when the
37 establishment is closed to the public.

38 (2) The hard frozen products shall only be sold to
39 purchasers for consumption. No hard frozen product

1 manufactured pursuant to the limited packaging permit
2 shall be sold for resale.

3 (3) All frozen dairy product mixes used for the
4 manufacture and packaging of hard frozen dairy product
5 novelties shall be dispensed from single service
6 containers sealed at the licensed milk products plant
7 where processed and pasteurized. Reconstitution of dry
8 mix or condensed mix is prohibited at a semifrozen milk
9 products plant issued a limited packaging permit.

10 (4) Adequate facilities, consistent with recognized
11 good manufacturing practices for the production and
12 packaging of hard frozen dairy products, as determined
13 by the secretary, shall be provided as a condition of the
14 limited packaging permit. The facilities shall include, but
15 are not limited to, adequate utensil and novelty mold
16 washing, sterilization and storage, and sufficient sanitary
17 work area, including handwashing facilities, dedicated to
18 the manufacture and packaging of hard frozen dairy
19 product novelties. Sanitation guidelines consistent with
20 good manufacturing and handling practices for retail
21 food establishments manufacturing and packaging hard
22 frozen dairy products in conformance with Part 110
23 (commencing with Section 110.3) of Title 21 of the Code
24 of Federal Regulations shall be utilized by the secretary
25 as a condition for issuance and renewal of the limited
26 packaging permit.

27 (5) Each individually packaged hard frozen novelty
28 shall be labeled with the name of the product and the
29 name and address of the manufacturer.

30 (c) Nondairy frozen dessert mix shall be obtained
31 from manufacturers licensed pursuant to ~~Section~~ Sections
32 38931 ~~or under Section 38984~~ and 38934. Any dry or
33 condensed mix to be reconstituted into freezable form
34 shall be reconstituted on the premises in containers or
35 equipment that meet the requirements of Sections 33763,
36 33764, 33765, and 33766. Any water used for reconstitution
37 shall be treated in a manner to ensure a quality equal to
38 potable pasteurized water. Upon reconstitution, the
39 product shall be poured directly into the freezing unit or

1 refrigerated at a temperature not to exceed 45 degrees
2 Fahrenheit, and so maintained until frozen, or both.

3 (d) Where any retail establishment manufactures two
4 or more of the products provided for under this section,
5 each of those products shall be processed in a separate
6 freezing device, and that freezing device shall be clearly
7 identified as to the product being manufactured therein.

8 (e) The secretary may, by agreement with any
9 approved milk inspection service, authorize the service
10 to inspect and enforce requirements of this code
11 applicable to the establishments covered by this section.
12 Any agreement shall provide that the approved
13 inspection service shall collect the applicable license fee
14 for those establishments as provided in Sections 35221 and
15 38933. The fees so collected shall be retained by the
16 approved service to cover its cost of enforcement, but 15
17 percent of the fees collected shall be remitted to the
18 secretary to cover the cost of administration.

19 *SEC. 3. The heading of Article 5.5 (commencing with*
20 *Section 38251) of Chapter 5 of Part 3 of Division 15 of the*
21 *Food and Agricultural Code is amended to read:*

22
23 Article 5.5. Evaporated ~~Lowfat~~ *Reduced Fat Milk* or
24 Condensed ~~Lowfat~~ *Reduced Fat Milk*

25 *SEC. 4. The heading of Article 17 (commencing with*
26 *Section 38522) of Chapter 5 of Part 3 of Division 15 of the*
27 *Food and Agricultural Code is amended to read:*

28
29 Article 17. Milk, *Reduced Fat Milk*, Lowfat Milk, or
30 *Light Milk*, and Nonfat Milk, *Skim Milk*, or *Fat Free*
31 *Milk* with Lactobacillus Acidophilus Culture Added
32

33 *SEC. 5. Section 38875 of the Food and Agricultural*
34 *Code is amended to read:*

35 38875. Fruit kefir is kefir, reduced-fat kefir, lowfat or
36 light (lite) kefir, or nonfat, skim, or fat-free kefir that
37 contains not less than 8 percent by weight of clean,
38 mature, sound fruit or its equivalent in other forms. The
39 milk fat content of fruit kefir shall be not less than 2.8
40 percent. Lowfat or light (lite) fruit kefir shall contain not



1 more than 1.2 percent milk fat. Reduced-fat kefir shall
2 contain not more than 2 percent of milk fat. Nonfat, skim,
3 or fat-free fruit kefir shall contain a maximum of twenty
4 hundredths of 1 percent milk fat. Harmless coloring may
5 be added to fruit kefir.

6 The milk fat content of fruit kefir made from goat milk
7 shall not be less than 2.0 percent.

8 *SEC. 6. The heading of Article 38 (commencing with*
9 *Section 38881) of Chapter 5 of Part 3 of Division 15 of the*
10 *Food and Agricultural Code is amended to read:*

11
12 Article 38. Lactose Reduced Milk, *Reduced Fat*
13 *Lactose Reduced Milk*, Lactose Reduced Lowfat or
14 *Light Milk*, and Lactose Reduced Nonfat, *Skim, or Fat*
15 *Free Milk*

16 *SEC. 7. The heading of Article 39 (commencing with*
17 *Section 38885) of Chapter 5 of Part 3 of Division 15 of the*
18 *Food and Agricultural Code is amended to read:*

19
20 Article 39. Fromage Frais or Soft Fresh Cheese;
21 ~~Lowfat Fromage Frais or Lowfat Soft Fresh Cheese,~~
22 ~~and Nonfat Fromage Frais or Nonfat Soft Fresh Cheese~~

23 *SEC. 8. The heading of Article 3 (commencing with*
24 *Section 39721) of Chapter 9 of Part 3 of Division 15 of the*
25 *Food and Agricultural Code is amended to read:*

26
27 Article 3. UHT *Reduced Fat Milk and UHT Lowfat or*
28 *Light Milk*

29 *SEC. 9. The heading of Article 4 (commencing with*
30 *Section 39731) of Chapter 9 of Part 3 of Division 15 of the*
31 *Food and Agricultural Code is amended to read:*

32
33 Article 4. UHT Nonfat Milk, *Skim Milk, or Fat Free*
34 *Milk*

35 *SEC. 10. The heading of Article 7 (commencing with*
36 *Section 39761) of Chapter 9 of Part 3 of Division 15 of the*
37 *Food and Agricultural Code is amended to read:*
38

Article 7. UHT Flavored *Reduced Fat Milk and UHT
Flavored Lowfat or Light Milk*

SEC. 11. *Section 39762 of the Food and Agricultural
Code is amended to read:*

39762. UHT flavored reduced-fat milk shall contain
not less more than 2.1 percent milk fat and not less than
8.25 percent milk solids-not-fat. UHT flavored lowfat or
light (lite) milk shall contain not more than 1.2 percent
milk fat and not less than 8.25 percent solids-not-fat.

SEC. 12. *No reimbursement is required by this act
pursuant to Section 6 of Article XIII B of the California
Constitution because the only costs that may be incurred
by a local agency or school district will be incurred
because this act creates a new crime or infraction,
eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section
17556 of the Government Code, or changes the definition
of a crime within the meaning of Section 6 of Article
XIII B of the California Constitution.*

*Notwithstanding Section 17580 of the Government
Code, unless otherwise specified, the provisions of this act
shall become operative on the same date that the act
takes effect pursuant to the California Constitution.*

~~enacting this act, to implement the recommendations of
a report required to be prepared by the Secretary of Food
and Agriculture relating to the economic impact on the
milk pooling system in California as a result of increased
activities in the manufacturing grade milk process that is
to be submitted to the Governor, the Senate Committee
on Agriculture and Water Resources, and the Assembly
Committee on Agriculture on or before July 1, 1997, as
specified in Chapter 626 of the Statutes of 1996 (S.B.
1492).~~

SEC. 2. ~~Section 33452 of the Food and Agricultural
Code is amended to read:~~

~~33452. (a) A dairy cow farm that was marketing
market milk, including milk that meets the definition of
restricted use market milk, on August 1, 1996, shall not
market manufacturing milk. However, each year on
January 1 such a dairy may elect to market manufacturing~~

1 ~~milk for a 12-month period . This provision applies to a~~
2 ~~dairy cow farm that was marketing manufacturing milk~~
3 ~~on August 1, 1996, that subsequently obtains a market~~
4 ~~milk grade A permit, but does not apply if the facility is~~
5 ~~sold or leased to a new operator.~~
6 ~~(b) This section does not apply to dairy goat farms.~~

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